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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/752,467

01/03/2001

Yoshihiro Tsuchiya

826.1661/JDH

1571

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7590

11/28/2003

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EXAMINER

SHAH, SAUMIL R

ART UNIT

PAPER NUMBER

2186

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DATE MAILED: 11/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/752,467

Applicant(s)

TSUCHIYA ET AL.

Examiner

Saumil Shah

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-5, 24,29, 34, 39, drawn to backing up a shared medium between a plurality of computers comprising copying a plurality of unit areas of the shared medium to the backup medium in a batch and further managing write data to the shared medium and reflecting the write data on the shared medium at the time of backup, classified in class 711, subclass 162.
 - II. Claims 6-13, 25, 30, 35, 40, drawn to backing up a shared medium between a plurality of computers comprising managing original data before an access occurs as a log, forming an entire log by gathering logs of two or more computers and forming data at a backup start point using the entire log, classified in class 714, subclass 15.
 - III. Claims 14-19, 26, 27, 31, 32, 36, 37, 41, 42, drawn to backing up a shared medium between a plurality of computers comprising setting a group of files stored in the sharing medium, listing unit areas occupied by the files included in the group and copying the plurality of listed unit areas in the backup medium, classified in class 711, subclass 162.
 - IV. Claims 20-23, 28, 33, 38, 43, drawn to backing up a storage medium accessed by a computer comprising listing a plurality of unit area changed

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after a previous backup process as a difference and copying the listed unit areas as incremental backup data, classified in class 711, subclass 162.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as backing up unit areas from the shared medium, in a batch, without log creation using a log management device.

See MPEP § 806.05(d).

3. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as using a control device to manage write data to the shared medium by each of the computers and reflecting this data on the shared medium at the time of back up.

See MPEP § 806.05(d).

4. Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility

such as backing up only those unit areas changed after a previous back up process among the areas in the storage medium and copying them as incremental back up data.

See MPEP § 806.05(d).

5. Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as backing up unit areas corresponding to a group of files, in a batch, without log creation using a log management device.

See MPEP § 806.05(d).

6. Inventions II and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as backing up only those unit areas changed after a previous back up process among the areas in the storage medium and copying them as incremental back up data. Furthermore, no logs are created at the time an access takes place in a computer.

See MPEP § 806.05(d).

7. Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility

such as using an area management device to back up only those unit areas changed after a previous back up process among the areas in the storage medium and copying them as incremental back up data.

See MPEP § 806.05(d).

8. Because these inventions are distinct for the reasons given above and the search required for each Group is not required for each of the other Groups, restriction for examination purposes as indicated is proper.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143)

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saumil Shah whose telephone number is 703-305-8786. The examiner can normally be reached on 9:00 AM to 5:30 PM M-F.

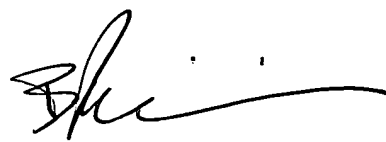
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 703-305-3821. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.


Saumil Shah
Examiner
Art Unit 2186

November 24, 2003


BEHZAD JAMES PEIKARI
PRIMARY EXAMINER